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09/541,722	04/03/2000	Karl Wadt	GR 97 P 3757	4809

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EXAMINER

WOOD, WILLIAM H

ART UNIT	PAPER NUMBER
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2124

DATE MAILED: 01/15/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/541,722

Applicant(s)

WADT, KARL

Examiner

William H. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-15 are pending and have been examined.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 24 October 2003 has been considered by the examiner and a copy returned.

Priority

2. Acknowledgment is made of applicant's claim for priority based on an application PCT/EP98/06003 filed 21 September 1998.
3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 02 October 1997. It is noted, however, that applicant has not filed a certified copy of 197 43 758.3 application as required by 35 U.S.C. 119(b).

Claim Objections

4. A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim. A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n). Applicant is correct in choosing a desired numbering sequence (in regard to claims 6-14). However, for the sake of a standard and easily readable format the claims will be renumbered (appropriately

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keeping the dependent claims together) by the Office should the application go to issue, unless otherwise requested by Applicant.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 4, 5 and 15 are rejected under 35 U.S.C. 102(a, b) as being anticipated by **Scholz** et al. (USPN 5,421,017).

Claim 1

Scholz disclosed a responsive system for digital signal processing (*column 1, lines 21-37*), comprising:

- ♦ a data transmission unit (*figure 2, messages on arrows; column 1, lines 27-30*); and
- ♦ a plurality of data processing units communicating with one another through said data transmission unit (*figure 2, platforms A, B and C; column 2, lines 49-52*), said data processing units implementing at least one computer program dependent on a respective update status (*column 1, lines 30-37; column 4, lines 4-16*), the system being configured as follows:

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- ♦ a) each of said data processing units (*column 2, lines 49-56*), during each communication, assigning a revision identity to a signal produced by said data processing unit to characterize said respective update status of said signal (*column 4, lines 1-8; figure 3A*);
- ♦ b) one of said data processing units receiving the signal, performing a comparison to determine if the revision identity characterizing the received signal matches a revision identity stored for that signal (*column 4, lines 9-16*); and
- ♦ c) said one of said data processing units receiving the signal, performing said at least one computer program on the signal upon matching the received revision identity with the stored revision identity and otherwise not performing said at least one computer program on the signal (*column 4, lines 9-16; new software is "at least one program"*).

Claim 2

Scholz disclosed the responsive system according to claim 1, wherein each of said data processing units has an analysis module for carrying out the comparison (*column 4, lines 9-16*).

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Claim 4

Scholz disclosed the responsive system according to claim 1, including a service system for updating at least one of the computer programs and the signals of said data processing units (*column 4, lines 1-42*).

Claim 5

Scholz disclosed a method for operation of a responsive system for digital signal processing (*column 1, lines 31-37*), which comprises:

- ♦ a) providing a data transmission unit (*figure 2, messages on arrows; column 1, lines 27-30*);
- ♦ b) providing a plurality of data processing units communicating with one another through the data transmission unit (*figure 2, platforms A, B and C; column 2, lines 49-52*);
- ♦ c) implementing at least one computer program depending on a respective update status in the data processing units (*column 1, lines 30-37; column 4, lines 4-16, new software is the "at least one computer program"*);
- ♦ d) producing a signal with one of the data processing units, and assigning a revision identity to the signal characterizing an update status of the signal (*column 4, lines 1-8; figure 3A; column 4, lines 9-16*), for each communication (*column 2, lines 49-56*); and

- ♦ e) carrying out a comparison in one of the data processing units receiving a signal to determine if the revision identity characterizing the received signal matches a revision identity stored for that signal (*column 4, lines 9-16*).

Claim 15

Scholz disclosed the method according to claim 5, wherein implementing at least one computer program depending on a respective update status includes processing the received signal if the revision identities of the received signal and stored signal match and otherwise not processing the received signal (*column 4, lines 9-16*).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3 and 6-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Scholz** et al. (USPN 5,421,017) in view of **Nonaka** et al. (USPN 5,619,716).

Claim 3

Scholz disclosed the responsive system according to claim 1, including a first database storing the respective update status of at least one of the signals and the computer programs of all of said data processing units (*column 4, lines 6-8*). **Scholz** did not

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explicitly state a second database storing at least one of future modifications or revisions of respective signals to be modified and respective computer programs to be modified. **Nonaka** demonstrated that it was known at the time of invention to implement configuration management systems, including a database, for directing updates (figure 1, elements 15 and 19; column 6, lines 52-60; figure 5; column 8, lines 52-61). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the updating system of **Scholz** with a database defining the future updates as found in **Nonaka's** teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to provide a orderly and centralized (useful for system administrators) method of efficiently updating a system.

Claim 6

Scholz did not explicitly state the method according to claim 5, which further comprises storing the stored revision identity in an analysis module in the data processing unit receiving the signal and in a database. The database is disclosed by **Nonaka** and **Scholz** as discussed above under claim 3. Official Notice is taken that it was known at the time of invention to store values close to their place of use. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the update system of **Scholtz** with storing a revision identity (disclosed by **Scholz** as mentioned above) in the analysis module (discussed above under claim 2). This implementation would have been obvious because one of ordinary skill in the art would be motivated to

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produce quick output (efficient) of a module by having all the necessary operands of an operation close at hand.

Claim 7

Scholz and **Nonaka** disclosed the method according to claim 5, which further comprises storing the stored revision identity in a database (as above under claims 3 and 6).

Claim 8

Scholz and **Nonaka** disclosed the method according to claims 5, which further comprises storing the stored revision identity in an analysis module in the data processing unit receiving the signal (as above under claim 6).

Claims 9-11

Scholz and **Nonaka** did not explicitly state the method according to claims 6-8, which further comprises incrementing the revision identity characterizing the signal and the revision identity stored for the signal by a value of one for a revision relating to that signal. Official Notice is taken that it was known at the time of invention to increment versions by 1 for subsequent releases. It would have been obvious to one of ordinary skill in the art at the time of invention to implement the system of **Scholz** and **Nonaka** with revision incrementing by one. This implementation would have been obvious because one of ordinary skill in the art would be motivated to utilize a commonly known

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practice of organizing updates and releases (which is in the interest of **Scholz** and **Nonaka** updating).

Claims 12-14

Scholz and **Nonaka** further teaches providing an indicator to illustrate a revision identity characterizing the signal and the revision identity stored for the signal have been update once the signal has been removed (**Nonaka**: “updating a configuration history database”; column 16, lines 44-50). **Nonaka** does not expressly disclose that the indicator is a negative mathematical operator (“-“). **Nonaka** teaches updating a revision history table to indicate that a prior version of software is no longer in use once a signal has been removed. This effect is taught by **Nonaka** as the creation of a line item in a configuration history database table. The use of a line item table displaying previous revision identifiers in a history table has the equivalent functionality of adding a negative mathematical symbol to a previous revision identifier. At the time of invention, one of ordinary skill in the art would have been motivated to incorporate the negative mathematical operator as claimed into the method of **Nonaka**. The modification would have been obvious because one of ordinary skill would have been motivated to indicate previous revisions of a software element using a clear illustration of their status, as taught by **Nonaka**.

Response to Arguments

9. Previous rejection under 35 U.S.C. 112 is withdrawn.

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10. Applicant's arguments with respect to claims 1-15 filed 24 October 2003 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 24 October 2003 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (703)305-3305. The examiner can normally be reached 7:30am - 5:00pm Monday thru Thursday and 7:30am - 4:00pm every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703)305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-7239 for regular communications and (703)746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

William H. Wood
January 9, 2004



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